

Notice of Allowability

Application No.

09/763,175

Examiner

Susan Ungar

Applicant(s)

KIYOI ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to May 29, 2006.
2. ☐ The allowed claim(s) is/are 1 and 9, now renumbered 1 and 2, respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet.

SUSAN UNGAR, PH.D
PRIMARY EXAMINER

Susan Ungar
Primary Examiner
Art Unit: 1642

Continuation of Attachment(s) 9. Other: Interview summary from interview of 5/18/06.

1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

2. The Amendment filed March 29, 2006 in response to the Office Action of September 27, 2005 is acknowledged and has been entered. Previously pending claim 1 was amended and claims 6-7 were canceled. Claims 1 and 9 are currently under prosecution.

3. The application has been amended as follows:

In the specification:

On page 7, line 32 after "all of which show IL3" the term "--independent" was deleted and the term "--dependent--" was substituted.

In the claims:

Claim 1 was amended as follows:

--A method for screening a candidate compound for a drug for the treatment of ~~to treat~~ acute myeloid leukemia or myelodysplasia syndrome ~~in whose cells that~~ express FLT3/ITD, said method comprising the steps of:

(a) ~~providing blood cells or hematopoietic stem cells in which~~ introducing the FLT3/ITD gene into blood cells or hematopoietic stem cells, ~~has been~~

~~introduced so as to express FLT3/ITD, wherein~~ whereupon said cells express
FLT3/ITD and proliferate IL-3 independently;

(b) contacting said cells with said candidate compound and culturing said cells in the absence of IL-3;

(c) detecting the proliferation of said cells;

(d) determining if the candidate compound inhibits the proliferation of said cells by inhibiting FLT3/ITD function; and

(e) ~~(d)~~ selecting the candidate compound that inhibits the proliferation of said cells by inhibiting FLT3/ITD function as a candidate compound for a drug to treat acute myeloid leukemia or myelodysplasia syndrome. --

4. It is noted that Applicant's response filed March 29, 2006 placed the application in condition for allowance based on the record at that time. The Examiner's Amendment is made in lieu of reopening prosecution in order to remedy informalities which were brought to Applicant's attention for the first time in the telephone Interview of May 18, 2006. Accordingly, no further extension of time is required to make the Examiner's Amendment which places the Application fully in condition for allowance.

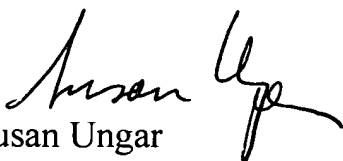
5. Authorization for this Examiner's Amendment was given in a telephone interview with Matthew Mulkeen on June 2, 2006.
6. It is noted that the drawings filed February 20, 2001 are acceptable to the Office.
7. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (703) 305-2181. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (571) 273-8300.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.



Susan Ungar
Primary Patent Examiner
June 2, 2006